

G. ROBERT SMITH et al.

v.

STEWART TITLE GUARANTY CO.

Submitted on Briefs May 27, 2010

Decided June 1, 2010

Panel: SAUFLEY, C.J., ALEXANDER, LEVY, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

G. Robert Smith and Catherine A. Smith (jointly, the Smiths) appeal from a summary judgment entered in the Superior Court (Cumberland County, *Cole, J.*) in favor of Stewart Title Guaranty Company. The Smiths' complaint alleged that Stewart breached its title insurance contract with the Smiths by failing to defend them in a lawsuit involving their property. Contrary to the Smiths' contentions, (1) the plain language of Exceptions 3 and 11 in the policy exclude the Smiths' claim from coverage, *see Am. Prot. Ins. Co. v. Acadia Ins. Co.*, 2003 ME 6, ¶ 11, 814 A.2d 989, 993 (explaining that an unambiguous contract must be interpreted according to the "plain meaning of the language used" (quotation marks omitted)); (2) only the policy and underlying complaint may be consulted when determining whether there is a duty to defend, *see York Ins. Group of Me. v. Lambert*, 1999 ME 173, ¶¶ 4-5, 740 A.2d 984, 985; and (3) Stewart's duty to defend the Smiths could be determined without the consideration of extrinsic evidence. Because Stewart did not have a duty to defend the Smiths, it was not responsible for their reasonable attorney fees and costs pursuant to 24-A M.R.S. § 2436-B (2009).

The entry is:

Judgment affirmed.

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